

# Separate proceedings – regional sea claim

## *Akiba v Queensland (No. 4)* [2008] FCA 1446

Finn J, 23 September 2008

### **Issue**

In this case, the Federal Court made an order pursuant to s. 67(2) of the *Native Title Act* 1993 (Cwlth) that different parts of the area covered by a claimant application be dealt with in separate proceedings.

### **Background**

The Torres Strait regional sea claim (TSRSC) covers waters in, and adjacent to, the Torres Strait. The application was filed in 2001. The hearing was to commence on 29 September 2008. However, recently, two overlapping claims were filed.

### **Splitting the proceedings**

His Honour Justice Finn ordered, pursuant to s. 67(2), that different parts of the area covered by the TSRSC are to be dealt with in separate proceedings, to be called the Part A proceedings and the Part B proceeding. Part A will deal with the area of the TSRSC which is unaffected by the overlapping applications. Part B will deal with the area of the TSRSC that is affected by the overlapping claims—at [4].

Finn J noted that Part A is ready for trial while Part B, which must now be dealt with together with the overlapping applications, is ‘not nearly ready for hearing’—at [6].

### **Decision**

The court ordered that the Torres Strait regional sea claim be separated into two separate proceedings called the Sea Claim Part A proceeding and Sea Claim Part B proceeding. The Sea Claim Part A proceeding remains subject to previous programming orders, while those relating to the Part B proceedings were vacated.